政府總部 發展局 工務科

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7 April 2009

2848 1199

Clerk to the Panel on Development Legislative Council Building 8 Jackson Road Central, Hong Kong (Attn: Ms Anita Sit)

Dear Ms Sit,

Panel on Development Follow-up to meeting on 24 February 2009

I refer to the two follow-up actions arising from the meeting of the Panel on Development on 24 February 2009 on the Revitalising Historic Buildings Through Partnership Scheme (Revitalisation Scheme) (Panel paper CB(1)816/08-09(03)). Please see our responses to the two follow-up actions below.

Follow-up action 1:

Please explain in greater detail the basis of selecting SCAD Foundation (Hong Kong) Limited to revitalise North Kowloon Magistracy under the Revitalisation Scheme.

Our response:

(a) All applications under the Revitalisation Scheme are vetted by an Advisory Committee on Revitalisation of Historic Buildings. The Committee comprises ten non-official and three official members who are professionals and experts in the fields of historical research, architecture, surveying, social enterprise, finance etc. The Committee examined and assessed the applications in accordance with five assessment criteria, i.e.

- reflection of historical value and significance
- heritage preservation
- social enterprise operation
- financial viability
- others
- (b) Among the 22 applications received for the North Kowloon Magistracy (NKM), the Committee had shortlisted three applications for second round assessment. The Committee had interviewed the three shortlisted applicants, asked supplementary questions arising from the interviews and authorized the Secretariat to pay visits to the shortlisted applicants to get first-hand information on their operation. Two officers from Development Bureau had visited the campus of SCAD in Atlanta & Savannah, USA, and had reported their observations to the Committee. SCAD Foundation (Hong Kong) Limited (SCAD-HK) was selected by the Committee because it was considered to be a balanced proposal and was the best among the three shortlisted applications in meeting the dual objectives of the Revitalisation Scheme, i.e. preserving the historic building and at the same time putting it for use in the best interest of the community. Reasons for the selection of SCAD-HK were set out in Annex 2 of the Panel paper CB(1)816/08-09(03). The relative ranking of SCAD-HK among the three shortlisted applications, in respect of each of the five assessment criteria, is given below:
 - (i) on reflection of historical value and significance, SCAD-HK ranks the second:
 - (ii) on heritage preservation, SCAD-HK ranks the second;
 - (iii) on social enterprise operation, SCAD-HK ranks the first;
 - (iv) on financial viability, SCAD-HK ranks the first; and
 - (v) on others, SCAD-HK ranks the first among the three shortlisted applications.
- It should be noted that the five criteria were given equal weightings and individual scores accorded to each criterion were aggregated to produce the final outcome. In particular, on the social enterprise operation aspect, which aims to assess the wider social benefits of a particular proposal, SCAD-HK was highly rated as it will help promote Hong Kong as a regional art and design educational hub and improve Hong Kong's global competitiveness in digital media and creative industries. The proposed campus will serve 1,500 local and overseas students and this educational institute together with the related design promotion activities would help revitalise an older part of Sham Shui Po. On financial viability, the sustainability of the project operation depends on whether target enrolment of students is met while containing costs. With SCAD's good track record, the project stands a reasonable chance of succeeding. considerations, the parent organisation of the selected applicant possesses substantial experience in adaptively re-using historic buildings in the U.S.A. The parent organisation has confirmed it would fully support SCAD-HK in the project.

Follow-up action 2:

Please demonstrate how the Administration could re-enter the heritage buildings through specifying conditions in the service agreements and/or tenancy agreements.

Our response:

- (d) Under the Revitalisation Scheme, Government will retain ownership of the land and the buildings. The Government will monitor the performance of all selected applicants through service agreements and tenancy agreements. To ensure the social enterprises (SE) are operated according to the project proposals, Government and selected applicants will enter into service agreements by which the content of the social enterprise projects including the project period, scope, uses, mode of operation and budget components etc. will be specified in the clauses and conditions of the agreements. The successful applicants are also required to submit regular reports and audited account statements to us for monitoring their performance. We shall also carry out physical checks on site from time to time to ensure the SEs are being operated in accordance with the proposals originally agreed by the Government.
- (e) In the event that an SE is not operated to the satisfaction of the Government in accordance with the proposal originally agreed by the Government, the Government will request the relevant applicant to rectify the situation. In the event the applicant fails to accede to the Government's request within a specified period, the Government will decide whether to terminate the tenancy agreement and take possession of the building. We will ensure that the service agreement and the tenancy agreement will empower the authority to pursue such action.

Petition Letter to LegCo

2. Just before the Panel meeting on 24.2.2009, the LegCo Secretariat emailed to us a petition letter with 350 signatures addressed to the LegCo Members (please see **Annex 1** attached), in which questions were raised on the selection of SCAD-HK for the North Kowloon Magistracy under the Revitalisation Scheme. The LegCo Secretariat had advised us that the petition letter was addressed to LegCo Members and was provided to them, amongst other things, for reference in conducting the discussion at the meeting. Responding to the letter was therefore not a follow-up action. Nevertheless, we consider we should put on record a formal response to the questions raised in the petition letter and in this regard, please see attached at **Annex 2** our response.

3.	We shall	be	grateful	if	you	would	convey	the	above	to	Members	for
their inf	ormation.											

Yours faithfully,

(Edwin K. H. Tong) for Secretary for Development

c.c.

Secretary for Education (Attn: Ms Amy Wong)

Secretary for Home Affairs (Attn. Ms Christine YY Wai)

b.c.c.

Mr Ivan CS Cheung, SEO(Adm), PLB

薩凡納進駐北九的三個疑點和問題 Petition

Annex 1



薩凡納進駐北九的三個疑點和問題

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To: 各位立法會議員

我們是一群藝術文化工作者和教育界人士,一直努力不懈希望香港成為更多元和充滿文化活力的城市。香港是亞洲的教育樞紐,對海外文化和專上教育機構非常吸引,這做法必須繼續,因此我們歡迎美國薩凡納藝術及設計學院(SCAD)來港投資並設立分校。然而,薩凡納順利成為前北九龍裁判署的活化「伙伴」,以免租形式在北九營運十年,我們對此表示極度關注,因為這個決定涉及土地資源,也帶出了好幾個政策和監管上的問題:

1 政府對海外大學在港設分校的政策

香港向來歡迎海外大學來港開設課程,也鼓勵本地大學與海外的學院合作,提供持續及專業教育。在(非本地高等及專業教育(規管)條例)(第493章)的框架下,香港已有數百個獲註冊的海外大學課程,而條例也有一套註冊程序,防止未達水準的非本地高等及專業教育課程在香港開辦,以保障香港消費者的利益。

在非本地高等及專業教育的範疇,政府一向扮演監管的角色, 而海外的專上學院則以自負盈虧方式運作,不會得到政府在土 地和資源上的補貼。然而,今次薩凡納藝術與設計學院得到投 資推廣署的引薦,透過「活化歷史建築伙伴計劃」,以免租形 式取得前北九龍裁判署大樓作為香港分校,似乎與現行政策有 薩凡納進駐北九的三個疑點和問題 Petition

偏離。

我們質疑,教育局是否在這方面有新的政策,即可以考慮資助非本地專上學院在港設分校?若是,新政策有否經過諮詢?是否也適用於由本地民間團體營辦的專上學院(如香港藝術學院)?

按現行條例,非本地課程須經過註冊。請問薩凡納學院擬提供的十四個課程是否已完成註冊程序?若否,發展局是透過怎樣的準則評核薩凡納的課程,並確保其具備一定質素?據〈美國新聞及世界報告〉的美國大學研究院排名,薩凡納的藝術課程名列134位,屬於有名次的最後一批,但它卻在是次的「活化」甄選中勝出,得到政府的公開確認和讚賞,會否誤導市民呢?

2 社會企業的定義和準則

發展局這個計劃的意義,是讓合資格的社會企業在歷史建築內營運,爲社區帶來裨益。民政事務局就社會企業有以下的定義:「社企是一盤生意,以達致某種社會目的,例如提供社會所需的服務或產品,爲弱勢社群創造就業機會,保護環境等。社企所得利潤主要用作再投資於本身業務,以達致既定的社會目的」。

然而,我們想問民政事務局,薩凡納是社會企業嗎?它的核心業務,是營運一所藝術和設計大專,據悉,薩凡納會爲青少年提供免費工作坊和課程,也會開放某些地方讓人參觀,但這些活動只佔其業務的少部分,並非核心業務。請發展局解釋,薩凡納的商業計劃,在那方面符合社會企業的定義和精神?

3 對「活化歷史建築伙伴計劃」營運者的持續監管

來自美國的薩凡納能夠成爲申請者,是因爲它在去年五月在香港成立了一所新的非牟利公司(薩凡納藝術設計學院基金(香港)有限公司,並取得免稅資格。這機構目前只有一名董事和成員,是不設股本的公司,因此SCAD並非它的股東。在成立大半年間,這所非牟利機構未有在香港提供任何文化藝術教育服務,因此也缺乏本地的服務紀錄。

請問發展局如何有效及持續的監察所有營運者?除了需要他們 提供年度的財務報告外,是否需要立法會作出年度的討論和公 聽?

民政局認爲,「社會企業所得利潤主要用作再投資於本身業

薩凡納進駐北九的三個疑點和問題 Petition

務,以達致既定的社會目的,而非分派給股東。」發展局如何 就這點監管營運者?舉例說,如藤凡納的總部爲香港分校提供 商譽,以及課程和營運上的知識和技術,它可以收取多少顧問 和管理費?是否要爲此設定上限,以防非牟利機構用會計上的 關聯交易手法把盈利回饋「母公司」?

在今次批出的六個歷史建築中,有五個需要公帑資助活化工 程,因此要由立法會財委會和工務小組的審批。薩凡納卻願意 自行斥資進行活化,表面上是省了數千萬的公帑,但錢幣的另 一面,卻是繞過了立法會的質詢和審批權。

然而,縱使沒有現金的資助,薩凡納以免租方式取得了北九, 本身已是資助,我們認爲立法會應該就薩凡納個案討論並審 批。

Sincerely,

The Undersigned



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The 薩凡納進駐北九的三個疑點和問題 Petition to 各位立法會議員 was created by and written by gumgum (gumgum@gmail.com). This petition is hosted here at www.PetitionOnline.com as a public service. There is no endorsement of this petition, express or implied, by Artifice, Inc. or our sponsors. For technical support please use our simple Petition Help form.

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FROM: 00000

cear friends,

THIS IS IMPORTANT!!

regarding the recent heritage revitalization, the North Kowloon Magistracy being granted to a US art and design college, SCAD. 薩凡納學院 SCAD is actually a low ranked 學店, and it's purpose is to "cheat" mainland students who love America, and it can be analogue as an A货迪士尼,而我們的政府又鑑到把實資的土地资源免责给一問牟取暴利的學店(\$210,000+tuition per ann)十年! (本地團體貝可穴年,仲要立法會批美國白人卻可免費字用十年) and there is

nothing we can do.

SCAD is very cunning, they claim they don't need tax payer money and will renovate the heritage on their own money with just around HALF of

\$70,000k, and get our heritage sitc FREE. free not only in terms of money, but also free from 很大程度的政府監管,不論在舊述上還是教學質素上。

thus, we are launching a signature campaign so that the press and legco will be asking more questions, and create a 監管機制 the best they can. Please see the petition in the link below and try your best to sign it for tmr (24/2) legco meeting.

Best, gumgum

請簽名: 薩凡納進駐北九的三個疑點和問題 petition on scad issue, pls support

pls read and sign (today 23rd feb) if you think those questions are worth asking, and of course, the more the number the signatures we can obtain, the more the attention from the press and legco members (they are realistic, if only a few sign, they may not care).

藤凡納進駐北九的三個疑點和問題 http://www.petitiononline.com/3Qhkscad/petition.html

1. 政府對海外大學在港設分校的政策

問題:獲選的薩凡納藝術設計(香港)學院 (SCAD) 透過「活化歷史建築伙伴計劃」,以 免租形式取得北九龍裁判法院作爲香港分校,似乎與現行政策有偏離。教育局對 於私立院校在港開辦非本地課程的教育政策是否有改變?若是,新政策有否經過 諮詢?是否也適用於由本地民間團體營辦的專上學院?

回應:活化歷史建築伙伴計劃

政府推出「活化歷史建築伙伴計劃(活化計劃)」目標是既保存歷史建築,又將之善加利用,以符合社會最大利益。活化計劃的目的如下:

- (a) 保存歷史建築,並以創新方法妥善利用;
- (b) 把歷史建築改建成獨一無二的文化地標;
- (c) 推動市民積極參與保育歷史建築;以及
- (d) 創造就業機會,特別以地區層面爲主。

在活化計劃下,當局邀請非牟利的非政府機構參與競投,提交建議活化這些歷史建築,而建議用途應採用社會企業的形式,原因如下 -

- (a) 很多空置的歷史建築所需的翻新和維修費用不菲,因此商業可行性有限;
- (b) 過去數年,不管是否獲得政府資助,非政府機構都有不少經營社會企業的構思,而活化計劃會爲這些機構注入更大動力,發揮創業精神;
- (c) 活化再用屬非牟利性質,政府會較容易提供資助和各項支援,協助使用 人根據其活化再用建議活化有關建築物,從而取得更迅速明顯的成效; 以及
- (d) 推廣社會企業,協助在地區層面創造就業職位,這是行政長官在競選宣言中的另一項承諾,並符合社會訴求,有助鼓勵有需要人士自力更生。

教育政策是否有改變

所有的申請,是經過活化計劃諮詢委員會根據評審準則研究和審議的。SCAD[就活化北九龍裁判法院]所提交的建議,是所有提交的申請書中被評定爲最能保存歷史建築,又能爲社會帶來最大裨益。我們應注意,象徵式租金是通過活化計劃給予獲選者的,活化計劃是一個由獲選機構以社會企業模式活化歷史建築的計劃。當中並不涉及教育政策是否有改變。同樣地,獲選的計劃有活化歷史建築作酒店或旅舍用途的,當中並不涉及旅遊政策或賓館政策的改變。

有否經過諮詢

在評審過程中,發展局曾就 SCAD 這個計劃諮詢了教育局和商務及經濟發展局,兩者均對計劃表示支持。教育局認爲有關計劃能爲學生提供更多選擇,有助培育人才。商務及經濟發展局從創意工業的角度出發,認爲 SCAD 在港設立分校對香港的創意產業是很大的鼓舞。SCAD 提供多元化的課程,爲香港培養不同創意範疇的專才。學院與美國頂尖數碼娛樂企業有聯繫,可吸引區內的創意產業人才來港交流,加強香港作爲區內創意之都的角色。事實上,發展局在二月十七日公佈第一期活化計劃的評選結果當日,商務及經濟發展局發出新聞公告,歡迎SCAD 在香港設立分校,爲香港創意產業發展注入新動力及爲有意投身行業的年青人提供優質的學業機會。

雖然如此,一如其他項目(例如,營運餐廳需要食物環境衞生署的牌照),獲選者 須符合所有政府現行的規定。就這個項目而言,SCAD需要根據《非本地高等及 專業教育(規管)條例》(第 493 章)就擬提供的非本地課程向教育局申請註冊。

是否也適用於本地的專上學院

本地的專上學院如符合《稅務條例》第88條所界定具有慈善團體身分的非牟利機構,均可參加活化計劃。事實上首批政府歷史建築中,雷生春由本地專上學院香港浸會大學成功申請,活化爲中醫藥保健中心。(除香港浸會大學外,亦有其他專上學院遞交活化計劃申請書。)

問題: SCAD 擬提供的課程是否已按《非本地高等及專業教育(規管)條例》第 493 章完成註冊程序?政府如何確保課程的質素符合此條例的要求?

回應:所有活化計劃的獲選者均須依照香港的所有法定程序,並在其開始營運社會企業之前,必須就技術、安全、營運等方面獲得有關許可。 SCAD 將會根據《非本地高等及專業教育(規管)條例》向教育局提出申請。(就如大澳精品酒店須向食物環境衞生署就其餐廳運作提出申請;青年旅舍協會亦須向民政事務總署就其旅舍營運提出申請)。在審議有關課程申請時,教育局會考慮提供課程的機構是否獲認可的非本地機構,及該課程的水平是否維持於可與在該機構位處的國家內進行並令學員獲取同一資格的課程比擬的水平。SCAD 已跟教育局接觸,並表示會於短期內提交申請。

2. 社會企業的定義和準則

問題:SCAD 是社會企業嗎?SCAD 的商業計劃,在哪方面符合社會企業的定義和精神?

回應:社會企業在國際社會並沒有一個統一的定義。一般而言,社會企業是一盤生意,以自負盈虧的模式運作,務求可以賺取利潤,而所得的利潤主要用作再投資於本身的社企業務,或資助轄下的社會服務,以達成既定的社會目的。特區政府近年亦鼓勵社企的發展,並藉此推動有關的社會政策,例如屬社會福利署的「創業展才能」計劃和民政事務總署的「伙伴倡自強」計劃,均以社企形式運作。

發展局於 2008 年 2 月向立法會申請撥款用以推行活化計劃,據財務委員會討論 文件 FCR (2007 – 08) 52 所載,根據《稅務條例》第 88 條規定取得慈善團體身份 的非牟利機構,均可提交建議書。SCAD 是一間《稅務條例》(第 112 章)第 88 條所界定具有慈善團體身分的非牟利機構。獲選後 SCAD 需要以社會企業模式, 自負盈虧運作,它所得的利潤必須再投入到計劃內。

3. 對活化計劃營運者的持續監管

問題:政府如何有效及持續的監察所有營運者?如何防止非牟利機構利用會計上的關聯交易手法把盈利回饋「母公司」?

回應:發展局會緊密監管所有獲選者,並確保他們均按照建議書提出的社會企業模式來 營運;而相關的法定規管部門亦會就其運作進行監管,無論它是酒店、醫療中心 或學校。獲選者須與政府簽訂服務協議,清楚列明社會企業計劃內容,包括計劃 年期、範圍、用途、經營模式及收支預算項目等,確保他們運作的細節及條款受 到法律約束。政府會密切監察社會企業的運作,確保他們遵守協議所列明的條款 及條件,並達到預定的目標。舉例說,我們會要求社會企業提交年度報告和經審 核帳目,以供審閱。

此外,政府繼續擁有這些歷史建築物的地權和業權,亦會透過服務協議和租賃協議監察獲選機構。若機構運作不理想,或未能履行協議的條款,我們會發出警告,並要求營運者解釋。假若情況持續或未有改善,我們可以終止租賃協議,收回建築物。

社會企業在合理情況下向母公司支付服務費用是可以接受的,例如由母公司提供的服務,社會企業需要支付費用,讓母公司收回成本;又例如支付知識產權費用等,基本原則是社會企業在市場上同樣需要付出費用以取得有關服務。由於

SCAD 的總部爲香港分校提供商譽以及課程和營運上的知識和技術,它收取行政服務費及知識產權費是無可厚非的。事實上,在 SCAD 提交的建議書中亦已清楚交代有關需要支付費用的安排,並經委員會接受。